



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

July 29, 2019

**BY ECF**

Honorable Stewart D. Aaron  
United States Magistrate Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312

Re: *New York Times and Vogel v. United States Dept. of Justice*,  
No. 18 Civ. 2095 (SDA)

Dear Judge Aaron:

I write respectfully pursuant to the Court's July 22, 2019 opinion and order, ECF No. 77, to provide an update on the "issues remaining in this case," *id.* at 27. Two sets of issues remain outstanding: one related to the government's final production, and the other to a potential demand for attorneys' fees. Because the parties are attempting to resolve these issues without litigation, we respectfully propose a further status update in approximately one month—by August 30, 2019.

**May 10 production.** As discussed in the Court's July 22 order and in previous letters, *see, e.g.*, ECF No. 69, on May 10, the government produced to plaintiffs a set of 378 pages of material as to which exemption 7(A) did not apply. These records included redactions for exemptions 6 and 7(C) to protect individual privacy. The government's May 10 response letter also noted that 325 items were withheld in full pursuant to FOIA's exemption 5. The parties are currently conferring about whether the government can provide any additional information to inform plaintiff of the basis for these withholdings.

**Attorneys' fees.** Plaintiffs have informed the government that they may make a demand for attorneys' fees. Plaintiffs are currently compiling information in support of a demand. The government does not concede that plaintiffs are eligible or entitled to recover fees in this action, and reserves all defenses to such a claim. Nevertheless, the parties believe it would be most productive in the first instance for the parties to attempt to resolve any fee claim without litigation.

**Proposal for further status update by August 30.** To allow the parties' ongoing discussions to continue, the parties propose that they provide the Court with a further status update by August 30, 2019.

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We thank the Court for its consideration of this request.

Respectfully submitted,

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